

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NATURAL RESOURCES DEFENSE
COUNCIL, INC.

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, *et al.*,

Defendants.

Civil Action No. 1:16-cv-01861-JDB

JUDGE JOHN D. BATES

STATUS REPORT BY DEFENDANT EPA

Pursuant to this Court's July 2, 2018 Order, Defendants submit the following status report regarding this matter:

1. In its Order dated March 30, 2018, the Court vacated the U.S. Environmental Protection Agency's (EPA) September 21, 2010 decision approving the total maximum daily load (TMDL) for trash in the Anacostia River, but stayed vacatur "until such time as EPA approves a replacement TMDL for trash in the Anacostia River." ECF No. 27 at 1. The Court further directed EPA to submit a status report "informing the Court of the actions that the agency has taken to comply with this Order." *Id.* at 2.
2. On July 2, 2018, EPA submitted its status report to the Court.
3. Following EPA's submission, the Court issued its July 2, 2018 Order directing EPA to submit a status report by January 4, 2019.
4. Since July 2, 2018, EPA has taken the following actions:

- a. **Solicitation for Data.** On August 24, 2018, EPA published in the Federal Register a solicitation for relevant data and information about trash in the Anacostia watershed (data call). The Maryland Department of the Environment (MDE) and the D.C. Department of Energy and the Environment (DOEE) simultaneously published the same data call. In addition, EPA sent letters requesting relevant data and information to stakeholders who participated in developing the original TMDL and/or submitted comments on the original TMDL. The data call closed on October 23, 2018. In response to the data call, EPA received a significant amount of data from eight entities.
- b. **Coordination with MDE and DOEE.** EPA has shared the data received with MDE and DOEE. EPA convened a conference call with MDE and DOEE on December 19, 2018 to discuss the data, data gaps, and next steps. During that call, the agencies identified permittees who might have relevant data, but did not submit data in response to the data call. The agencies agreed to follow up with those permittees. In addition, the agencies also agreed to periodic conference calls. The agencies anticipate these periodic calls will occur monthly. All three agencies are reviewing the data to identify options for possible TMDL endpoints.
- c. **Evaluation of Need for Contractor Support.** EPA continues to evaluate whether a contractor will be needed to provide technical support for development of the revised or replacement TMDLs. This determination is

partially dependent on, and will be made after further evaluation of, the nature and extent of data available to reassess the baseline load and TMDL endpoint.

Respectfully submitted,

Dated: January 4, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on January 4, 2016, I filed the foregoing using the Court's CM/ECF system, which will electronically serve all counsel of record registered to use the CM/ECF system.

Eileen T. McDonough